IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

Crl.Rev.Pet.No. 932 of 1999()

CRA.121/1994 of ADDL.SESSIONS COURT, KOTTAYAM DT.16.3.1999
CC.451/1992 of JUDL.MAGISTRATE OF FIRST CLASS-I, KANJIRAPPALLY DT.26.5.1994
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REVN. PETITIONER: APPELLANT/ ACCUSED

K.S.PADMANABHAN NAIR,
SREERANGAM VEEDU,
PAZHAYACHANDA, PONKUNNAM.

BY ADV. SRI.T.P.VARGHESE
SRI.PHILIP T.VARGHESE

RESPONDENTS: RESPONDENTS/ COMPLAINANT
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1. **C.S. GOPALAN NAIR, SRINGANANICKAL VEEDU,**
CHIRAKKAKADAVU VILLAGE,
KIZHAKKUMBHAGAM KARA.

2. **THE STATE OF KERALA, REP.BY**
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.T.S.RAJASENAN
PUBLIC PROSECUTOR SRI.AMJAD ALI.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 13/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.RP. NO.932/1999

ORDER ON CRL.MP. 4308/1999 IN CRL.RP. NO.932/1999

DISMISSED

13.07.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.S. TO JUDGE

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K.R. UDAYABHANU, J.

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CRL.R.P.NO. 932 of 1999

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DATED THIS THE 13th July 2007

ORDER

The revision petitioner stands convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced, as modified by the appellate court, to pay a fine of Rs.25,000/- and in default to undergo rigorous imprisonment for six months. It is also directed that the fine amount, if realised, Rs.20,000/- is to be paid to the complainant under Section 357(3) Cr.P.C.

2. The evidence adduced in the matter consisted of the testimony of PW1 and EXts.P1 to P9. The prosecution case is that the accused borrowed an amount of Rs.15,000/- and towards the repayment, issued a cheque dated 29-10-1992 which when presented got dishonoured for want of funds in the account of the accused. Lawyer notice was sent. There was no reply nor was any amount paid. PW1, the complainant has testified with respect to the borrowal of the amount and issuance of the cheque. The evidence of PW1 stands not controverted on material particulars. The fact that there was no sufficient funds in the account of the accused is proved from

Ext.P8 ledger extract. The compliance of the statutory formalities, i.e. issuance of notice, is proved from Exts.P4, P4 and P6, copy of notice, postal receipt and acknowledgment card. The version of the accused is that he had given a blank cheque to one Sasidharan with respect to a loan transaction and the same was closed and that the above cheque has been misused by the complainant. No evidence to substantiate the above plea was adduced. In the circumstances, I find no reason to interfere in the concurrent findings of the courts below. The Crl. revision petition is dismissed.

K.R.UDAYABHANU, JUDGE

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K.R.UDAYABHANU, J

CRL.R.P. NO. 932 OF 1999
ORDER

13-7-1007